

PROB. 12B
(7/93)

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

United States District Court

for the

DISTRICT OF HAWAII

FEB 15 2008
at 2 o'clock and 16 min
SUE BEITIA, CLERK

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: FRANCIS V. MANANKIL

Case Number: CR 03-00581DAE-02

Name of Sentencing Judicial Officer: The Honorable David Alan Ezra
U.S. District Judge

Date of Original Sentence: 11/8/2004

Original Offense: Conspiracy to Distribute and Possess With Intent to Distribute
50 Grams or More of Methamphetamine, in violation of
21 U.S.C. §§ 846, 841(a)(1), and (b)(1)(A), a Class A felony

Original Sentence: The subject was sentenced to eighteen (18) months imprisonment
to be followed by three (3) years supervised release. The following
special conditions were ordered: 1) That the defendant provide the
Probation Office access to any requested financial information; and
2) That the defendant shall submit his person, residence, place of
employment, or vehicle to a search conducted by the
U.S. Probation Office at a reasonable time and in a reasonable
manner, based upon reasonable suspicion of contraband or
evidence of a violation of a condition of release. Failure to submit
to a search may be grounds for revocation. The defendant shall
warn any other resident that the premises may be subject to search
pursuant to this condition.

Type of Supervision: Supervised Release Date Supervision Commenced: 4/4/2006

PETITIONING THE COURT

[X] To modify the conditions of supervision as follows:

*General Condition: The defendant shall refrain from any unlawful use of a
controlled substance. The defendant shall submit to
one drug test within 15 days of the commencement of
supervision and at least two drug tests thereafter but*

no more than eight valid drug tests per month during the term of supervision (mandatory condition).

Special Condition No. 3 The defendant shall participate and comply with substance abuse treatment which includes drug and alcohol testing, at the discretion and direction of the Probation Office.

Special Condition No. 4 The defendant is prohibited from the possession and/or use of alcohol.

Special Condition No. 5: The defendant shall perform 50 hours of community service work at the discretion and direction of the Probation Office.

CAUSE

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
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- | | |
|----|---|
| 1. | On 1/26/2008, the subject engaged in conduct constituting Operating a Vehicle While Under the Influence of an Intoxicant (OVUI), in violation of Hawaii Revised Statutes § 291E-61 and the General Condition. |
|----|---|

The subject began his term of supervised release on 4/4/2006. Between 4/4/2006 and 1/25/2008, the subject remained in compliance with the terms of supervised release. However, on 1/30/2008, the subject telephonically contacted this officer and reported that on 1/26/2008, he was arrested for Operating a Vehicle While Under the Influence of an Intoxicant (OVUI). The subject explained that he attended a social gathering with friends at a bar in Ward Center, Honolulu. The subject explained that he drank several alcoholic beverages before driving home. The subject acknowledged that it was a mistake but noted that he has not consumed any alcohol since that night. The subject further indicated that he would be willing to attend substance abuse counseling sessions at Freedom Recovery Services (FRS).

On 2/5/2008, a representative of the Honolulu Police Department (HPD) provided this officer with a copy of the pertinent police report. In summary, on 1/26/2008 at approximately 3:30 a.m., an HPD officer stopped the subject on Kuhio Avenue for a speeding violation. The officer noted that the subject smelled of alcohol and appeared red-faced. The subject consented to a field sobriety test (FST) which he proceeded to fail. Furthermore, the subject admitted to the officer that he had consumed several alcoholic drinks. As a result of the subject's failure of the FST and his admission to drinking, he was placed under arrest for OVUI. Upon arrival at the police station, the

subject consented to participate in an alcohol breath test. The results of the breath test showed the subject had a blood alcohol content (BAC) of .100 which was in excess of the legal limit of .08.

Based upon the subject's admission to committing the offense of OVUII and his desire to participate in substance abuse treatment, it is recommended that the Court allow the subject to continue to remain in the community on supervised release. However, in an effort to impress upon the subject the importance of remaining a law-abiding citizen, the subject has agreed to perform 50 hours of community service work. This will allow the subject time to reflect upon the value of making good choices. Furthermore, the subject acknowledges that he will have the best chance to succeed if he does not consume alcohol. As a result, the subject has agreed to refrain from the possession and consumption of alcohol for the remainder of the period of supervision. Finally, the subject has agreed to modify his conditions of supervised release to allow drug testing consistent with United States v. Stephens. The subject's use of alcohol and arrest for OVUII warrants the modification of the condition. The revised condition will enable our office to monitor the subject's future compliance.

Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives his right to a hearing and to assistance of counsel. The subject agrees to the modifications of the conditions of supervised release. The subject's attorney and the U.S. Attorney's Office have been notified of the proposed modifications and have no objections.

Respectfully submitted by,



MARK T. NUGENT
U.S. Probation Officer

Approved by:



TIMOTHY M. JENKINS
Supervising U.S. Probation Officer

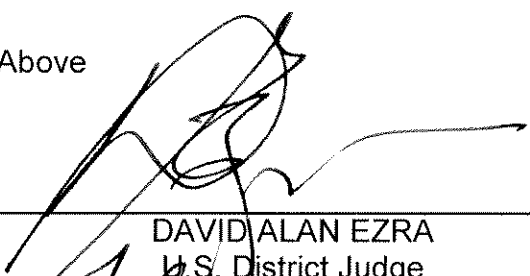
Date: 2/13/2008

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THE COURT ORDERS:

- ☒ The Modification of Conditions as Noted Above
☐ Other



DAVID ALAN EZRA
U.S. District Judge

Feb. 14, 2008
Date

PROB 49
(5/96)

United States District Court

District of Hawaii

Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:


- ☐ To extend the term of supervision for years, for a total term of years.
☒ To modify the conditions of supervision as follows:

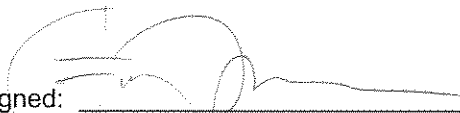
General Condition: The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than eight valid drug tests per month during the term of supervised release (mandatory condition).

Special Condition No. 3: The defendant shall participate and comply with substance abuse treatment which includes drug and alcohol testing, at the discretion and direction of the Probation Office.

Special Condition No. 4: The defendant is prohibited from the possession and/or use of alcohol.

Special Condition No. 5: The defendant shall perform 50 hours of community service work at the direction of the Probation Office.

Witness: 
MARK T. NUGENT
U.S. Probation Officer

Signed: 
FRANCIS V. MANANKIL
Supervised Releasee

1-31-08
Date